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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANDREA ESQUIVEL, a minor, by and through her Guardian Ad Litem, GINA FLAMENCO, an adult; BRENDON RYAN VILLANUEVA, a minor, by and through his Guardian Ad Litem, EVELYN VILLANUEVA, an adult; KEVIN MARK VILLANUEVA, a minor, by and through his Guardian Ad Litem, EVELYN VILLANUEVA, an adult; MALCOLM WRIGHT, a minor, by and through his Guardian Ad Litem, BENNY WRIGHT, an adult,

Petitioners.

VS.

SAN FRANCISCO UNIFIED SCHOOL DISTRICT, SAN FRANCISCO BOARD OF EDUCATION, CITY AND COUNTY OF SAN FRANCISCO, ERIC MAR, individually and as a Member of the School Board, MARK SANCHEZ, individually and as a Member of the School Board, JANE K, individually and as a Member of the School Board, KIM-SHREE MAUFAS, individually and as a Member of the School Board, NORMAN YEE, individually and as a Member of the School Board, JILL WYNNS, individually and as a Member of the School Board, HYDRA MENDOZA, individually and as a Member of the School Board, CARLO GARCIA, individually and as the Superintendent of the San Francisco School District, DAN KELLY, individually and as a former Member of the School Board, SARA LIPSON, individually and as a former Member of the School Board.

Respondents.

JOINT DISCOVERY REPORT PURSUANT TO FED. R. CIV. P. 26(f)

- NO. CV 07 5709 MHP

1 Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, the parties to this action
2 submit this report setting forth a discovery plan. The parties have met and conferred in compliance
3 with Rule 26(f).

4 **A. Initial Disclosures**

5 The parties will be serving their initial disclosures on the day this report is due or
6 shortly thereafter. The parties have agreed not to produce actual documents at this time but rather
7 identify any relevant documents by categories. The parties have agreed to stay all discovery until the
8 Court rules on defendants' motion to dismiss. The parties have further agreed that if the Court denies
9 the motion to dismiss, they will produce documents identified in the initial disclosures 30 days after
10 the Court issues its order.

11 **B. Subjects and Timing of Discovery**

12 The parties have not taken any discovery to date and have agreed to stay all discovery
13 until defendants' motion to dismiss has been ruled on by the Court. The parties anticipate that if the
14 motion to dismiss is denied, there will be only limited discovery taken.

15 Plaintiffs have indicated they will seek to take the depositions of the Board members
16 who voted on the resolution to phase-out the JROTC program. Defendants will oppose those
17 depositions on the grounds that the individual reasons the Board members voted for or against the
18 resolution are irrelevant to the resolution of the case and are protected under the legislative privilege
19 doctrine. Therefore, defendants may file a motion for a protective order if or when plaintiffs notice
20 those depositions.

21 Defendants do not anticipate taking discovery at this time although they may seek
22 limited discovery concerning any claims plaintiffs make concerning damages or limited discovery to
23 better understand the claims being made.

24 The parties agree to the following discovery deadlines, assuming the Court rules on the
25 motion to dismiss by April 30, 2008. The parties reserve their right to propose alternative dates if
26 resolution of the motion to dismiss takes longer than that.

- 27 1. Discovery maybe be conducted May 1 through August 30, 2008;
28 2. Discovery cut-off will be August 31, 2008;

- 1 3. Deadline to designate any expert witnesses: September 15, 2008;
- 2 4. Dispositive motions to be filed: November 3, 2008.

3 The parties believe that because discovery will be limited, there is no need to conduct it
4 in phases.

5 **C. Disclosures or discovery of electronically stored information**

6 SFUSD and the Board have taken steps to preserve electronic information that relates to
7 the Board's resolutions concerning the JROTC program, and that is identified in defendants' initial
8 disclosures.

9 **D. Claims of privilege**

10 If plaintiffs seek to depose members of the Board or evidence concerning the
11 underlying reasons why Board members voted for or against the phase-out resolutions, defendants may
12 seek a protective order from the court on the ground such information is irrelevant and is privileged by
13 the legislative privilege doctrine.

14 The parties agree that if either party inadvertently produces otherwise privileged
15 material, the other party will not claim that the production itself waived the privilege.

16 **E. Limitations of discovery**

17 As set forth above, the parties have agreed to stay discovery until the Court rules on
18 defendants' motion to dismiss. The parties do not anticipate the need for further restrictions on
19 discovery at this time.

20 **F. Any other orders**

21 The parties have not agreed to any further orders with respect to discovery.

1 Dated: February 19, 2008

Respectfully submitted,

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5 REMCHO, JOHANSEN & PURCELL, LLP

6 By: _____ /s/
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8 Thomas A. Willis

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12 Attorneys for Respondents San Francisco Unified
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14 School District, San Francisco Board of Education,
15 City and County of San Francisco, Eric Mar, Mark
16 Sanchez, Jane Kim, Kim-Shree Maufas, Norman
17 Yee, Jill Wynns, Hydra Mendoza, Carlos Garcia, Dan
18 Kelly and Sara Lipson

19 By: _____ /s/
20 LeRue Grim

21 Attorney for Petitioners Andrea Esquivel, Brendon
22 Ryan Villanueva, Kevin Mark Villanueva and
23 Malcolm Wright

24 (00051267-3)

SIGNATURE ATTESTATION

I hereby attest that I have on file all holograph signatures for any signatures indicated by a “conformed” signature (/s) within this e-filed document.

Dated: February 19, 2008